FORM TO BE USED BY A PRISONER FILING A 42 U.S.C. § 1983 CIVIL RIGHTS COMPLAINT IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

08-CV-3156

RECEIVED JUL 03 2008

FILED JUL 10 2008 MICHAEL E. KUNZ, Clerk By ______ Dep. Clerk

I. CAPTION

HARVEY MIGUEL ROBINSON, Jr.
(Enter the full name of the plaintiff or plaintiffs)

v.

JEFFREY A. BEARD, DAVID DIGUGLIELMO, JULIE KNAUER, MYRON STANISHEFSKI, FELIPE ARIAS, sued in their individual and official capacities, officer TOMS, (continued on back/over)
(Enter the full name of the defendant or defendants)

II. PARTIES

a. **Plaintiff**

Full name: Harvey Miguel Robinson, Jr.

Prison identification number: CJ-8032

Place of present confinement: State Correctional Institution of Graterford ("SCI-Graterford")

Address: Box 244, Graterford, PA 19426

Place of confinement at time of incidents or conditions alleged in complaint, including address:

J-block, B-wing, B-13 cell at SCI Graterford, Box 244, Graterford, PA 19426

Additional plaintiffs: Provide the same information for any additional plaintiffs on the reverse of this page or on a separate sheet of paper.

b. **Defendants:** (list only those defendants named in the caption of the complaint, section I)

1. **Full name including title:** Jeffrey A. Beard, Secretary of Pa. Department of Corrections
   Place of employment and section or unit: Central Office, Box 598, Camp Hill, PA 17001
2. **Full name including title:** David DiGuglielmo, Superintendent at SCI-Graterford
   Place of employment and section or unit: SCI-Graterford
3. **Full name including title:** Julie Knauer, SCI-Graterford Corr. Health Care Admin.
   Place of employment and section or unit: SCI-Graterford Medical Department
4. **Full name including title:** Myron Stanishefski, SCI-Graterford Corr. Health Care Admin.
   Place of employment and section or unit: SCI-Graterford Medical Department

Additional defendants: Provide the same information for any additional defendants on the reverse of this page or on a separate sheet of paper.

a. *Describe the administrative procedures available to resolve the issues raised in this complaint:*

Type of procedure. (grievance, disciplinary review, etc.) Inmate Grievance

Authority for procedure. (DC-ADM, inmate handbook, etc.) Department of Corrections Administrative Directive 804 ("DC-ADM 804")

Formal or informal procedure. Formal

Who conducts the initial review? Any supervisory staff member, who the facility grievance coordinator decides to assign as the "assigned grievance officer".

What additional review and appeals are available? There is a second level apl. to the facility manager/Supt., & final review apl. to the chief grievance officer.

b. *Describe the administrative procedures you followed to resolve the issues raised in this complaint before filing this complaint:*

On what date did you request initial review? 7-5-06;7-11-06;7-21-06;7-31-06

What action did you ask prison authorities to take? Interview me/witnesses; contact state police to press crim. charges; see a specialist (continued on back/over)

What response did you receive to your request? They were denied; were rejected; that my allegation were being investigated.

What further review did you seek and on what dates did you file the requests? Second level appeals to facility manager/Supt. on 7-28-06(#157089),7-14-06 (157720,157721),9-28-06(158902),and 9-5-06(159758). Final review apl. to chief grie. officer 10-6-06(157089),10-12-06/1-16-07(157720-21),11-8-06/12-1-06(158902),10-5-06/11-3-06(159758)

What responses did you receive to your requests for further review?

Second level appeal: was told my allegation of abuse was not substantiated; and upheld response provided at initial review. Final review: upheld responses provided at intitial review & second level appeal; dismissed appeal; and denied appeal.

c. *If you did not follow each step of the administrative procedures available to resolve the issues raised in this complaint explain why.*

(IV. ADMINISTRATIVE REMEDIES, b., continued...)

("What action did you ask prison authorities to take?"...continued)
(physical therapist), have tests performed to identify the extent of the injuries, so they can be treated; and preserved all rights to relief that are ordinarily granted by the courts including, but not limited to monetary damages.

V. STATEMENT OF CLAIM

Instructions:

*State here as **briefly** as possible the **facts** of your case. Use **plain language** and do not make legal arguments or cite cases or statutes. State how **each defendant** violated your constitutional rights. Although you may refer to any person, make claims only against the defendants listed in the Caption, Section I. Make only claims which are **factually related**. Each claim should be numbered and set forth in a separate paragraph with an explanation of how the defendants were involved. Use the reverse of this page or a separate sheet of paper if you need more space.*

Statement of claim:

1. At all times relevant to the events mentioned and described in this complaint, all the defendants have acted, and continue to act, under color of state law.

2. On July 3, 2006, plaintiff was pre-scheduled for the 7am time slot in the J-blk. mini law library on J-blk., which is a Restricted Housing Unit ("RHU") where all prisoners are under administrative segregation.

3. At about 7am on July 3, 2006, defendant Toms came to plaintiff's cell door to escort plaintiff to the mini law library. Plaintiff immediately informed defendant Toms that plaintiff needed two more minutes

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VI. RELIEF

***Instruction:** Briefly state exactly what you want the Court to do for you.*

Relief sought:

WHEREFORE, Plaintiff respectfully prays that this court enter judgment granting plaintiff:

1. A declaration that the acts and omissions described herein violated

*** continued on page 14 ***

VII. DECLARATION AND SIGNATURE

I (we) declare under penalty of perjury that the foregoing is true and correct.

6-26-08 [signature]

DATE — SIGNATURE OF PLAINTIFF(S)

to wash up (brush). At this time defendant Toms was totally alone.

4. When defendant Toms returned to escort plaintiff, and before reaching plaintiff's cell, plaintiff's cell door opened, and plaintiff stepped into the cell doorway and asked defendant Toms why he opened plaintiff's cell door. Defendant Toms then stated, "to take you to the library, get dress". At this time, again, defendant Toms was totally alone.

5. Then, just as plaintiff bent down to pick up, and put on his socks and shoes, defendant Toms suddenly grabbed plaintiff's upper body and pulled plaintiff out on to the tier.

6. Upon information and belief, defendant Toms held plaintiff by the throat with one hand while continually striking (punching) plaintiff in the face and head with the closed fist of defendant Toms' second hand. defendant Toms continued this non-stop for between 5 to 10 minutes, while stating, "go down", after each and every time defendant Toms punched the plaintiff.

7. Upon information and belief, defendants Wilcox and Baretsky then came running down the b-wing tier and immediately began punching and kicking plaintiff while wrestling plaintiff to the ground, and finally hand cuffing plaintiff behind his back.

8. Then defendants Toms and Baretsky continued to kick and punch plaintiff, as plaintiff was handcuffed behind the back laying on the ground.

9. Plaintiff was then picked up and escorted to, and locked in the B-wing shower.

10. Upon information and belief, prisoners Samual Carson, Simon Morales and Robert Cook witnessed plaintiff being assaulted as described in the above paragraphs, and provided a cassette tape recorded statement, while being interviewed by, the assigned SCI-Graterford internal security officer, Lt. Knauer (conducted with Lt. Lori Eason).

11. Upon information and belief, defendants Toms, Baretsky and Wilcox attacked and viciously assaulted plaintiff because of plaintiff's criminal convictions, and because of grievances/and complaints plaintiff submitted against defendant Baretsky, and against defedants co-workers, and to teach plaintiff a lesson that they're the law, and inmates should not challenge the law.

12. After waiting (in the B-wing shower) for almost 30 minutes, plaintiff was then escorted to the SCI-Graterford medical infirmary, where he was examined by two (2) Nurses and a Doctor, a medical incident report was filled out, and

*** continued on page 5 ***

many pictures were taken of almost all of plaintiff's visible injuries and wounds, and one of the nurses informed plaintiff, that so many pictures need to be taken, because one set is for the medical department records, and the second set is sent to the SCI-Graterford internal security department.

13. Plaintiff explained to the Doctor and Nurses what he could remember/and re-call before, during and after he was assaulted by defendants Tom, Beretsky and Wilcox, and where exactly plaintiff felt pain, sorness and what hurt. Plaintiff reported severe and extremely throbbing pain, soreness and tenderness on both sides of his head (top/and back of his head), face (including both sides of his jaw), left eye/and ear, neck, shoulders and back, blurred vision in left eye, cut inside of mouth, abrasions/and scratches on arms. Plaintiff visibly suffered a swollen blackened left eye (protruding outward from his face almost an inch) almost closed, blood in the white part of his left eye, cut inside his mouth, abrasions and scratches on arms, back and neck, redness on neck, left shoulder and both arms.

14. At about 1:30pm on July 3,2006, plaintiff was served two (2) falsified/and fabricated (DC-141) misconduct reports charging him with assault, threatening an employee, and refusing a direct order, based on the above described events. One written by defendant Toms and the second written by defendant Frushon.

15. The "staff member's version" on both misconduct reports alleged, basically that plaintiff was being escorted to the law library by BOTH defendants Toms and Frushon, and that plaintiff was able to "free his hand"/("slipped his cuffs") and "...began swinging his closed right fist repeatedly at defendant Toms", as defendant Toms wrote, and "...attempted to hit CO Toms...", as defendant Frushon wrote, and that plaintiff threatened defendant Toms and refused an order.

16. Upon information and belief, defendants Toms and Frushon falsified and fabricated the above mentioned misconduct reports with malice and specific intention to cause harm to plaintiff, and to gloss over and to "cover up"/ and [conceal] the above mentioned assault, committed by defendants Toms, Wilcox and Beretsky, against plaintiff.

17. Since the time of the above mentioned assault, up until present day, plaintiff has submitted numerous medical sick call slips, and has been scheduled for many "doctor line" call out visits (in direct relation and because of the injuries he sustained and on-going medical problems he was/and continues to experience as a result of, and due to the above mentioned assault).

18. For a little over a month after the above mentioned assault, plaintiff basically expressed/and reported during each and every assault related sick call and doctor line visits (and on about all of the sick call slips-them selves): that plaintiff was experiencing daily throbbing pain in his head, and neck; and additional problems with his neck (i.e., whenever plaintiff turned his head to the left/or right to far, and more so when he lift it up from being forward/down, plaintiff would immediately feel a mixture of pain and a hard to explain feeling-shot into his head, down his back/spine, and down both arms); blurred vision in left eye and pain; and that when ever plaintiff would wake up and through out each day, plaintiff would get light headed and dizzy to the point where plaintiff would pass out; and plaintiff requested medical treatment, to be seen by a physical therapist, to be scheduled for a CT scan (cat scan)/and MRI of his head, and MRI of his neck, so the severity/and extent of the injuries mentioned above, can be determined, and to be scheduled to see a specialist (requested this during sick call and doctor line visits) to be properly evaluated for the many injuries plaintiff sustained and on-going medical problems explained above.

19. Following the initial month after the assault mentioned above, plaintiff continued to experience throbbing pain in his head and neck, and the additional problem (mentioned above) with his neck, continued to get dizzy/and light headed, and occasionally pass out, for months after the above mentioned assault, and all the while long plaintiff continued to report this to medical staff during all the above mentioned assault related sick call/and doctor line visits that followed the initial ones.

20. For nearly every one of these above mentioned sick call slips plaintiff submitted/and doctor line Visits he was scheduled for, plaintiff was seen by and spoke directly to a SCI-Graterford medical staff member, and for the ones relevant to these above mentioned sick call/and doctor line visits, plaintiff was seen by/and spoke directly to defendant Dr. Arias, and each and every time defendant Dr. Arias totally denied all of plaintiffs requests for medical treatment (with the exception of Motrins), to be scheduled to see a specialist, and for an MRI and CT scan of plaintiff's head and MRI of plaintiff's neck, and to be seen by a physical therapist.

21. Because defendant Dr. Arias denied all of plaintiff's requests for medical treatment, as mentioned above, plaintiff submitted an inmate grievance

against defendant Dr. Arias in accordance with pennsylvania D.O.C. policy.

22. Defendant Knauer was assigned/and responded to plaintiff's inmate grievance mentioned above, and responded by denying plaintiff's grievance.

23. In addition to this, and upon information and belief, defendant Knauer reviewed plaintiff's medical file/chart numerous times since the above mentioned assault, and was well aware of plaintiff's condition and serious medical needs.

24. Pursuant to Pennsylvania D.O.C. policy, plaintiff filed a second level appeal to defendant DiGuglielmo, and he eventually responded by unholding the response provided by defendant Knauer, which, as mentioned above, was to deny plaintiff's grievance.

25. Upon information and belief, when a prisoner files a grievance, the grievance staff calls the matter to the attention of those individuals responsible for the matter that the grievance concerns.

26. During about the first week of October 2006, plaintiff started experiencing problems with his nervous system. Specifically, plaintiff's finger tips (on both hands) started tingling (about two on each hand) and going numb.

27. By the end of the month of October 2006, plaintiff was experiencing numbness and tingling in all fingers, and pain and weakness in both palms, forearms, and biceps, and immediately started reporting these above mentioned nervous system problems to SCI-Graterford prison officials by way of sick call slips/and visits, and specifically addressed memos.

28. On November 1,2006, plaintiff sent defendant DiGuglielmo and defendant Knauer (both) a memo, and informed them of the above mentioned problems he was experiencing with his nervous system. Plaintiff expressed to both defendants that he believes he has nerve damage as a result of being assaulted (repeatedly punched and kicked) by 3 CO's on July 3,2006. In both memos, Plaintiff went on to request medical treatment for the nerve damage, for a CT scan, and to be seen by a specialist.

29. Defendant DiGuglielmo and defendant Knauer never provided plaintiff with a reply to the above mentioned memos, but in turn, only returned plaintiff's memos with a stamp on one "RECEIVED" by the medical department (with notation), and stamped "RECEIVED" by the superintendents office on the second memo.

30. Instead, defendant Stanishefski, on November 20,2006, responded to the above mentioned memos (addressed to defendant DiGuglielmo and defendant Knauer), by sending plaintiff a response (dated November 20,2006) stating, ("I have

received your medical records. There is numerous documentation of your request for CAT scan and MRI. However, your medical exams and X-rays have been negative. Your request to be seen by a specialist and to receive an MRI or CAT scan is denied at this time."). And he indicated at the bottom that a copy of his reply was sent to defendant DiGulielmo.

31. Plaintiff continued to submit sick call slips, explaining his worsening nervous system condition, and of the extreme throbbing pain in his neck/and head, and requested medical treatment each time.

32. Upon information and belief, because of these above mentioned nervous system problems plaintiff was experiencing, on December 1,2006, during a "doctor line" visit with defendant Dr. Arias, he informed plaintiff that he was approving and sending plaintiff for an MRI of his upper spinal column (i.e., neck area).

33. During this December 1,2006 "doctor line" visit mentioned above, plaintiff explained to defendant Dr. Arias of his worsening nervous system condition, and of the continual extremely throbbing non-stop pain in his neck/and back of his head, and requested any and all medical treatment regardless of the results of the MRI of plaintiff's neck. Specifically, plaintiff informed defendant Dr. Arias that his nervous system condition has worsened to the point where he was starting to experience weakness, alot of pain, numbness and tingling throughout both arms (from his shoulders down to his finger tips of all ten fingers), pain/weakness and numbness throughout his whole back, stomach, chest and both legs, and that all of this is greatly affecting his walking.

34. On December 14,2006, Plaintiff was taken to a local Hospital (Mercy Suburban) for the MRI of his neck, but upon information and belief, there was a "mix up" with the paper work the Hospital was supposed to receive, and plaintiff had to be re-scheduled.

35. On December 26,2006, plaintiff was again taken to the local Hospital (Mercy Suburban), and an MRI was done of plaintiff's upper spinal column (neck).

36. On December 30,2006, plaintiff spoke to defendant Dr. Arias during a sick call visit. Defendant Dr. Arias informed plaintiff that the MRI results of plaintiff's upper spinal column (neck), showed that plaintiff has two (2) ruptured disks and a fractured vertebra, and that plaintiff would be scheduled for a doctor line visit to go over/and discuss the MRI results, and that defendant Dr.Arias ordered additional tests to measure nerve damage.

37. During this (12-30-06) sick call visit by defendant Dr. Arias plaintiff

informed him that the problems he has been experiencing with his nervous system are still worsening, and that plaintiff is still having real bad pain in his head (in addition to his neck), and again requested an MRI and CT scan of his head, and defendant Dr. Arias again denied this request, and said that nothing was wrong with plaintiff's head.

38. Plaintiff continued to submit sick call slips, and during the visits, he explained of his worsening nervous system condition, that it was to the point where he was experiencing weakness, alot of pain, tingling numbness totally throughout both arms, and total pain weakness and numbness in his entire back, stomach, chest and both legs, and that plaintiff has been recently experiencing more numbness in his lower stomach area, and that its even more difficult to do almost everything with his hands, and that the affect on his walking was getting worse, and requested medical treatment, and surgery if needed.

39. On February 20,2007, during a sick call visit by defendant Dr. Arias, plaintiff explained to him in detail, the above mentioned worsening nervous system problems that plaintiff was continuing to experience, and plaintiff again requested medical treatment and surgery to correct his condition. Plaintiff went on to explain that ever since the first week of October 2006, until present day, the nervous system problems he has been experiencing, have been constant and non-stop 24 hours a day (every single day). Defendant Dr. Arias then informed plaintiff that tests to measure nerve damage have been approved for plaintiff.

40. Plaintiff then waited all the way until March 29,2007, which was when he was finally taken to a private Doctors office, where nerve conduction studies where performed to measure nerve damage.

41. On March 30,2007, plaintiff spoke directly to defendant DiGuglielmo, and explained exactly how his nervous system problems have worsened as mentioned above, and requested medical treatment, and for him to order that plaintiff be sent for an MRI/and CT scan of his head because of the throbbing pain, and surgery if needed. Defendant DiGuglielmo assured plaintiff that he would look into his concerns.

42. Again on April 10,2007, plaintiff spoke directly to defendant iGuglielmo, and expressed that the status of his condition, explained of on rch 30,2007, to defendant DiGuglielmo, has not gotten any better, and plaintiff in requested medical treatment. In addition to this plaintiff also requested use of the aid of a plastic chair for (resting) on while in the shower and

yard, explain of the continual throbbing pain in his head, and requested approval for a CT scan and MRI of his head, and surgery if needed. Defendant DiGuglielmo again said he would look into plaintiff's concerns.

43. Plaintiff continued to submit sick call slips, requesting the results of the nerve conduction study tests performed on him on March 29,2007. Eventually plaintiff was informed during a following sick call visit, that plaintiff did in fact have nerve damage, and that he would be scheduled to speak to defendant Dr. Arias on doctor line.

44. In a doctor line visit that followed, Dr. Caleb Nwosu discussed and explained plaintiff's confirmed nerve damage to him. Plaintiff then requested medical treatment and surgery to treat/and or correct the two ruptured disks and fractured vertebra, so plaintiff can have relief from the daily pain he suffers from as a result of the 7-3-06 assault mentioned above. Doctor Nwosu responded by informing plaintiff that any such requests can only be approved by defendant Dr. Arias, and he advised that plaintiff bring his requests and concerns mentioned above, to defendant Dr. Arias's attention.

45. Following this above mentioned doctor line visit with Dr. Nwosu, plaintiff did bring all the above mentioned requests to the attention of defendant Dr. Arias, during sick call visits that followed (a June 5,2007 sick call visit being one), and defendant Dr. Arias denied all requests for medical treatment beyond motrin, and defendant Dr. Arias still continues to delay/and deny plaintiff medical treatment.

46. By way of letter dated 7-31-06, plaintiff totally informed and made defendant Beard aware of the above mentioned assault, plaintiff's exact initial medical condition/needs and that plaintiff is being denied/and delayed medical treatment by defendant Dr. Arias, that defendants Toms and Frushon each falsified/ and fabricated a misconduct report to "cover up"/and (conceal) the above mentioned assault, and defendant Beard did not take any action/nor did he provide any remedy what so ever concerning the above, and in doing so defendant Beard was completely deliberately indifferent to plaintiff's serious medical needs, by ignoring the fact that 3 of his guards, as mentioned above, viciously assaulted plaintiff with without cause, failing to oversee and supervise defendants Toms, Beretsky, Wilcox, and Frushon, and adequately training them.

47. By way of inmate request slips, memo, administrative appeals of inmate grievances/and misconduct report, plaintiff totally and fully informed and made

defendant DiGuglielmo aware of the above mentioned assault; plaintiff's exact medical condition/and needs (i.e., initially, and later developed ones), and continual problems as a result of the injuries plaintiff sustained due to the above mentioned assault, and that plaintiff was being both denied/and delayed medical treatment and to see a specialist by defendants Dr. Arias and Knauer; and the fact that defendants Toms and Frushon each falsified/and fabricated a misconduct report to "cover up"/ and (conceal) the above mentioned assault; and defendant DiGuglielmo did not take action, and did not provide any remedy what so ever concerning the above.

48. By way of inmate request slips, memo, and administrative appeals of inmate grievances, and verbally, plaintiff requested of defendant DiGuglielmo/and that he order his medical staff to provide plaintiff with proper medical treatment, to be seen by a specialist, a CT scan & MRI of plaintiff's head and neck (which MRI of neck was done) due to/and because of plaintiff's serious medical condition and needs.

49. As mentioned above, defendant Stanishefski was fully aware of plaintiff's serious medical needs, and medical requests, as his November 20,2006 response to the above mentioned memos (addressed to defendants DiGuglielmo and Knauer) indicated and revealed, and because he took no action/ and failed to provide any remedy what so ever, he was completely deliberately indifferent to plaintiff's serious medical needs.

50. As mentioned, defendant Knauer was fully aware of plaintiff's exact medical condition/ and serious medical needs (i.e., initially, and later developed ones), his repeated medical requests, and that he was being delayed/and denied medical treatment by defendant Dr. Arias, and she did not take any action/ and failed to provide any remedy what so ever, and in doing so was completely deliberately indifferent to plaintiff's serious medical needs.

51. Defendant DiGuglielmo exercised complete deliberate indifference: by ignoring the fact that 3 of his guards, as mentioned above, viciously assaulted plaintiff without cause and failing to remedy this wrong, failing to oversee and supervise defendants Toms, Beretsky, Wilcox, and Frushon, and adequately training them; for allowing to stand/and not correcting or remedying the fact that defendants Toms and Frushon each falsified/and fabricated a misconduct report to "cover up"/and (conceal) the above mentioned assault; and by willfully disregarding and ignoring plaintiff's condition and serious medical needs, as

mentioned and described in this complaint, requests for medical treatment and to be seen by a specialist, and for a CT scan/and MRI of his head.

52. Defendant Dr. Arias exercised complete deliberate indifference by willfully disregarding and ignoring plaintiff's condition and serious medical needs (i.e., initially and as they worsened between October 2006 and May 2007) by denying/and delaying him medical treatment, to be seen by a specialist, and for a CT scan/and MRI of his head.

53. Because of the complete deliberate indifference exercised by defendants DiGuglielmo, Knauer, Stanishefski, and Dr. Arias, to plaintiff's condition and obviously serious medical needs, in that they both delayed/and denied plaintiff medical treatment, plaintiff's condition drastically worsened (between October 2006 and May 2007) to the point where it had an almost crippling affect on plaintiff's walking and all around common and everyday practices as mentioned above. To date, plaintiff is still suffering from severe throbbing pain in his neck and back of his head, still suffers from the effects of the nerve damage, although not as intense as the above mentioned approx. 7 month peroid, nightmares about the assault, and other psychological trauma.

54. Defendants DiGuglielmo, Knauer, Stanishefski, and Dr. Arias exercised complete deliberate indifference when they willfully disregarded plaintiff's condition/and his serious medical needs (initially, and as they worsened between October 2006 and May 2007, and still continue to do so to present day), which were/and are obviously serious medical needs and problems, by purposely ignoring, denying plaintiff's continual/and repeated requests for medical treatment, and all other requests mentioned above, for the problems and injuries sustained and experienced by plaintiff due to the above mentioned assault (and continue to do so even after the results of the MRI of plaintiff's neck confirmed upper spinal column injuries, and nerve study test showed nerve damage), which is completely medically unacceptable in theory and practice, and in total contrast with any/ and all acceptable medically professional judgment, practice and standards, and clearly highlights their collective decision is not only altogether outrageous, but also a substantial departure from accepted medically professional judgment, practice and standards.

55. The actions/and or deliberate indifference explained of, of all defendant's named in this complaint, caused plaintiff to suffer (and continue to suffer) permanent damage to his spinal column, nerve damage, prolonged and

extreme pain, unnecessary complications, stress, nightmares, fear, depression and many other psychological impacts, traumas and tortures.

56. The actions of defendants Toms, Baretsky and Wilcox in using excessive force against the plaintiff, as described of in this complaint, in that they viciously beat and assaulted plaintiff without cause, need/or provocation, were done maliciously and sadistically for the purpose of causing harm, and constituted cruel & unusual punishment in violation of the Eighth Amendment of the United States Constitution.

57. The actions of defendants Toms and Frushon in falsifying/and fabricating a misconduct report to "cover up"/and (conceal) the above mentioned assault (i.e., Eighth Amendment violation), as described of in this complaint, were done maliciously and sadistically with malice and specific intention to cause harm to plaintiff, and constituted a violation of and deprived plaintiff his rights under the Due Process Clause of the Fifth and Fourteenth Amendments to the United States Constitution.

58. The actions of defendants Beard and DiGuglielmo, described of in this complaint, in ignoring/and refusing to take action and provide a remedy concerning the fact that defendants Toms and Frushon each falsified/and fabricated a misconduct report to "cover up"/and (conceal) the above mentioned assault, despite their knowledge of the above described due process violation, constituted deliberate indifference and further denied the plaintiff the due process of law in violation of the Fifth and Fourteenth Amendments to the United States Constitution.

59. The actions of defendants Beard and DiGuglielmo in ignoring/and refusing to take action and provide a remedy concerning the fact that defendants Toms, Baretsky, and Wilcox, used excessive force against plaintiff, as mentioned above and described of in this complaint, despite their knowledge of the above described Eighth Amendment violations, constituted deliberate indifference and further violated plaintiff's rights guaranteed under the Eighth Amendment of the United States Constitution.

60. The actions of defendants Beard and DiGuglielmo in failing to oversee and supervise defendants Toms, Baretsky, Wilcox, and Frushon, and adequately train them, as mentioned above and described of in this complaint, constituted deliberate indifference and further violated plaintiff's right guaranteed under the Eighth Amendment of the United States Constitution.

61. Defendants Beard, DiGuglielmo, Knauer, Stanishefski, and Dr. Arias's deliberate indifference to plaintiff's serious medical needs, as described of in this complaint, violated plaintiff's rights, and constituted cruel and unusual punishment under the Eighth Amendment of the United States Constitution.

62. The failure of defendants Beard, DiGuglielmo, Knauer, Stanishefski, and Dr. Arias, to provide plaintiff with medical treatment, as described of in this complaint, and instead just leave plaintiff to endure on-going pain and suffering, as a result of the above mentioned assault, and continue to do so even after the above mentioned MRI results confirmed upper spinal damage, and nerve conduction tests showed nerve damage, constituted deliberate indifference to plaintiff's serious medical needs in violation of the Eighth Amendment to the United States Constitution.

(VI. RELIEF, continued...)

plaintiff's rights under the Constitution and laws of the United States.

2. A preliminary injunction ordering defendants Beard, DiGuglielmo, Knauer, Stanishefski, and Dr. Arias or their agents to:

a) Immediately arrange for plaintiff to be scheduled for a CAT scan, and MRI of his head.

b) Immediately arrange for plaintiff to be examined and evaluated by a medical practitioner with expertise in nerve damage.

c) Immediately arrange for plaintiff to be examined and evaluated by a medical practitioner with expertise in spinal injuries.

d) Immediately arrange for plaintiff to be examined and evaluated by a medical practitioner with expertise in head injuries.

e) Carry out without delay the treatment directed by such medical practitioners.

3. Compensatory damages in the following amounts:

a) $250,000 jointly and severally against each defendant for past and present personal injury.

b) $250,000 jointly and severally against each defendant for past and present pain and suffering.

c) $100,000 jointly and severally against each defendant for past and present mental and emotional injury.

d) $5000,000 jointly and severally against each defendant for permanent injury and future pain and suffering.

4. Punitive damages in the amount of $250,000 against each defendant.

5. A jury trial on all issues triable by jury.

6. Any additional relief this Court deems just, proper, equitable.

Respectfully submitted this 26th day of June, 2008.

x [signature]

Harvey Miguel Robinson
#CJ-8032
Box 344
Graterford, PA 19426